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| 1059 7 | 590 03/27/2002 | | | |
| BERESKIN A | | EXAMINER | | |
| | EET WEST-SUITE 4000 | BOX 401 | BASHORE, ALAIN L | |
| TORONTO, O | N M5H 3Y2 | | ART UNIT | PAPER NUMBER |
| | | | 2164 | |
| | | | DATE MAILED: 03/27/2002 | |

Please find below and/or attached an Office communication concerning this application or proceeding.



| Application N. Applicant(s) Offic Action Summary Examin r Alain L. Bashore 2164 Art Unit Alain L. Bashore 2164 Art Unit Alain L. Bashore 2164 AS HORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE of THIS COMMUNICATION. Extensions of line may be available united the provisions of 3 CER 1.13(6), inno event, however, may a septy be timely filed 1 from period for reply is pecified above, the maximum shallows period will apply and vive ergor \$3.(6) MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions of line may be available united the provisions of 3 CER 1.13(6), inno event, however, may a septy be timely filed 1 from period for reply is applied above, the maximum shallows period will apply and vive ergor \$3.(6) MONTH(S) from the making date of this communication. 1 from period for reply is applied above, the maximum shallows period and the communication will apply and vive ergor \$3.(6) MONTH(S) from the making date of this communication. 1 part of the period for reply is period for apply the period for the communication will apply and vive ergor \$3.(6) MONTH(S) for the making date of this communication, even of trendy Medic may subset any subset any subset any subset any subset and subset and the communication, even of trendy Medic may subset any subset any subset and subset | | | | OH |
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| Alain L. Bashore The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. If the period for reply specified above is less than thirty (30) days, are period to reply septided above is less than thirty (30) days, are period to reply specified above is less than thirty (30) days, are period to reply specified above is less than thirty (30) days, are period to reply specified above is less than thirty (30) days, are period to reply specified above is less than thirty (30) days, are period to reply specified above is less than thirty (30) days, are period of this communication. If the period for reply specified above is less than thirty (30) days, are period of this communication. If the period for reply specified above is less than thirty (30) days, are period of this communication, are period of this communication. If the period for reply specified above is less than thirty and the the mailing date of this communication, are period of this communication. A period for the specification is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 34-54 is/are rejected. 7) Claim(s) is/are allowed. 6) Claim(s) are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. Application Papers 9) The proposed drawing correction filed on is are allowed. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Application Papers 9) The oath or declaration is objected to by the Examiner. 11 period of the priority documents have been received in Application No. 12 Certified copies | Office Action Commence | 09/324,920 | DEGRAAF ET AL. | |
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| A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MALING DATE OF THIS COMMUNICATION. and EXIX (8) MONTHS from the maline, date of this communication. If the period for reby specified above, the maximum statutory parted will apply and will aspity as will be considered simely. If NO period for reby specified above, the maximum statutory parted will aspity and will aspity and will aspity and will aspity as | The MAN INC DATE of the | | 1 | |
| THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be waited under the provision of 3° CPR 1.13(6). In no event, however, may a reply be timely flied after SIX (6) MORTHS from the mailing date of this communication. Part of the SIX (6) MORTHS from the mailing date of this communication. If No period the part of th | | opears on the cover sheet t | with the correspondence add | dress |
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| | Notice of References Cited (PTO-892) Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) Notice o | The state of the s | |

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Art Unit: 2164

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

Receipt is acknowledged of a request for continued examination under 37
 CFR 1.114, including the fee set forth in 37 CFR 1.17(e).

Specification

2. The disclosure is objected to because of the following informalities: A related application is disclosed but not specified in under a separate heading for <u>Cross-References to Related Applications</u>: See 37 CFR 1.78 and MPEP § 201.11.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 39, 46, and 53 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. While the specification is enabling for financial instruments (to which the preferred embodiment is described utilizing), it does

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not appear to be enabling for "non-financial" instruments. The specification defines non-financial instruments regarding reservoir capacities and insurance products, both of which also appear to be financial instruments.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 34 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 34 there is claimed in paragraph "d" recitations regarding executing a simulation but in subparagraph "ii" there is recited changing the dynamic portfolio, which appears to no longer be part of a simulation and therefore confusing.

Claim Rejections - 35 USC § 103

- 7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
 - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 8. Claims 34-54 rejected under 35 U.S.C. 103(a) as being unpatentable over French in view of Melnikoff.

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French discloses a method, portfolio of instruments and a system for determining performance evaluation associated with a user's portfolio by simulating changes to the composition of a dynamic portfolio under a plurality of scenarios at a plurality of time steps (fig. 1). The users portfolio comprises a plurality of instruments. There is generated a dynamic portfolio comprising a plurality of instruments and having an initial composition that is identical to the composition of the user's portfolio. At least one rule for use in the simulation is defined in which changes are to be made to the composition of the dynamic portfolio. The defining step is performed prior to executing the simulation. At least one rule is dependant on at least one tracked attribute, one at least one tracking position, and on at least one trade position. One of a plurality of scenarios under which the simulation is to be performed is selected. The simulation is executed under a plurality of time steps on the dynamic portfolio with substeps of valuing the dynamic portfolio, changing the dynamic portfolio, and repeating the substeps a plurality of time steps for each of a plurality of scenarios. French discloses rules including a band rule, where the rules inherently are assigned priorities and evaluated in order of that priority (fig. 4).

French does not disclose producing an output risk metric for the dynamic portfolio wherein the output metric is dependant on the composition of the dynamic portfolio after executing the simulation.

Melnikoff discloses producing an output risk metric for a simulated portfolio wherein the output metric is dependant on the composition of the simulated portfolio . after executing the simulation.

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It would have been obvious to one with ordinary skill in the art to include calculation of a risk metric because of what is taught by both Melnikoff and French.

Melnikoff teaches simulation of a portfolio and that risk is a measure of performance (col 1, lines 59-61), French teaches simulation of a portfolio to measure performance and acknowledges risk as a factor per se (col 7, lines 24-25).

Response to Arguments

9. Applicant's arguments with respect to claims 34, 41 and 48 have been considered but are moot in view of the new ground(s) of rejection. With regards to the interview on 18 January 2002, the final rejection was discussed and how the art of record would no longer meet newly added recitations under 35 USC 102. No discussion was made of possible 35 USC 103 rejections utilizing a combination of art already of record.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alain L. Bashore whose telephone number is 703-308-1884. The examiner can normally be reached on about 7:30 am to 5:00 pm (Alternate Fridays Off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 703-308-1065. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Alain L. Bashore March 21, 2002

VINCENT MILLIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100